

ADMINISTRATIVE PANEL DECISION

Boursorama v. ahammar larach
Case No. DNL2024-0019

1. The Parties

Complainant is Boursorama, France, represented by Nameshield, France.

The registrant of the disputed domain names is ahammar larach, United Kingdom, (the “Respondent”).

2. The Domain Names and Registrar

The disputed domain names <boursou-espacee.nl> and <boursou-espace.nl> (the “Domain Names”) are registered with SIDN through One.com A/S.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 8, 2024. On April 10, 2024, the Center transmitted by email to SIDN a request for registrar verification in connection with the Domain Names.

On April 11, 2024, SIDN transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named respondent and contact information in the Complaint.

The Center sent an email communication to Complainant on April 11, 2024, providing the information disclosed by SIDN, and inviting Complainant to amend the Complaint in this light. Complainant filed an amended Complaint on April 11, 2024.

The Center verified that the Complaint as amended satisfies the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified Respondent of the Complaint and the proceedings commenced on April 16, 2024. In accordance with the Regulations, article 7.1, the due date for Response was May 6, 2024. The Center did not receive any response. Accordingly, the Center notified Respondent’s default on May 10, 2024.

The Center appointed Dinant T. L. Oosterbaan as the panelist in this matter on May 29, 2024. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

4. Factual Background

Complainant, operating under the name Boursobank, is a pioneer and leader in its three core businesses, online brokerage, financial information on the Internet and online banking. In France, Complainant is the online banking reference with over 6 million customers. The portal “www.boursorama.com” is the first national financial and economic information site and first French online banking platform.

According to the evidence submitted, Complainant owns various trademarks for BOURSORAMA and BOURSOBANK, including European Union Trademark BOURSORAMA No. 1758614, registration date October 19, 2001, and International Trademark BOURSOBANK (figurative) No. 1757984, registered on August 28, 2023.

In addition, Complainant owns a number of domain names which include the trademark BOURSORAMA or its dominant part “Bourso”, such as the domain names <boursorama.com>, registered since March 1, 1998, <bourso.com>, registered since January 11, 2000, and <boursobank.com> registered since November 23, 2005.

The Domain Names were registered on April 4, 2024. The Domain Names at the time of the decision do not resolve to an active website. Previously the Domain Name <boursou-espace.nl> redirected to an imitation of Complainant’s client login page and the Domain Name <boursou-espacee.nl> resolved to a parking page.

The trademark registrations of Complainant were issued prior to the registration of the Domain Names.

5. Parties’ Contentions

A. Complainant

Complainant submits that the Domain Names are confusingly similar to its trademarks. The addition of French generic term “espace” (“area” or “space”) does not change the overall impression of the designation as being connected to Complainant’s trademarks. It does not prevent the likelihood of confusion between the Domain Names and Complainant, its trademarks and associated domain names. It is well-established that a domain name that wholly incorporates a Complainant’s registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP.

Furthermore, Complainant contends that the addition of the country code Top-Level Domain (“ccTLD”) “.nl” does not change the overall impression of the designation as being connected to Complainant’s trademark and official domain name <boursorama.com>.

Complainant submits that Respondent has no rights or legitimate interests in the Domain Names. Complainant asserts that Respondent has not been commonly known by the Domain Names. Respondent is not related in any way with Complainant. Complainant does not carry out any activity for, nor has any business with Respondent. Neither license nor authorization has been granted to Respondent to make any use of Complainant’s trademarks, or apply for registration of the Domain Names by Complainant. In addition, the Domain Name <boursou-espace.nl> redirects to an imitation of Complainant’s client login page in order to attract and obtain information from Complainant’s customers. The Domain Name <boursou-espacee.nl> resolves to a parking page and Respondent has no demonstrable plan to use this Domain Name.

Complainant asserts that the Domain Names have been registered and are being used in bad faith. Given the distinctiveness of Complainant's trademarks and reputation, it is reasonable to infer that Respondent has registered the Domain Names with full knowledge of Complainant's trademarks. In addition, Complainant contends that Respondent registered the Domain Name <boursou-espace.nl> for the purpose of maliciously attracting and obtaining consumers' personal information. The Domain Name <boursou-espacee.nl> resolves to a parking page. According to Complainant the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Based on article 2.1 of the Regulations, a claim to transfer a domain name must meet three cumulative conditions:

- a. the domain name is identical or confusingly similar to a trademark or tradename protected under Dutch law in which the complainant has rights, or other name mentioned in article 2.1(a) under II of the Regulations; and
- b. the respondent has no rights to or legitimate interests in the domain name; and
- c. the domain name has been registered or is being used in bad faith.

As Respondent has not filed a Response, the Panel shall rule based on the Complaint. In accordance with article 10.3 of the Regulations, the Complaint shall in that event be granted, unless the Panel considers it to be without basis in law or in fact.

A. Identical or Confusingly Similar

Complainant has established that it is the owner of several trademarks for BOURSORAMA and BOURSOBANK, both applicable in the Netherlands.

It is well accepted that the first element of the Regulations functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").¹

Complainant has shown rights in respect of a trademark applicable in the Netherlands for purposes of the Regulations. See also [WIPO Overview 3.0](#), section 1.2.1.

The Domain Names incorporate the distinctive and dominant "BOURSO" part of the BOURSORAMA and BOURSOBANK trademarks. Previous panels under the Regulations have found that a domain name is identical or confusingly similar to a complainant's trademark where the domain name incorporate the entirety of such trademark or where a dominant feature of the relevant mark is recognizable in the domain name. See also section 1.7 of [WIPO Overview 3.0](#).

¹In view of the fact that the Regulations are substantially similar to the Uniform Domain Name Dispute Resolution Policy ("UDRP"), it is well established that both cases decided under the Regulations and cases decided under the UDRP, and therefore [WIPO Overview 3.0](#), may be relevant to the determination of this proceeding (see, e.g., *Aktiebolaget Electrolux v. Beuk Horeca B.V.*, WIPO Case No. [DNL2008-0050](#)).

The addition of the letter “u” after the dominant “BOURSO” part of the BOURSORAMA and BOURSOBANK trademarks, the hyphen between “boursou”, “espace” and “espacee”, and the addition of other terms, here “espace” and “espacee” do not change the overall impression of confusing similarity and would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements.

In particular the Panel notes that the term “espace” is typically used as being short for “espace client” (French for “client space” or “client area”), which in practice means that a user can access his or her account; this term, and its variation “espacee”, may thus be disregarded.

The ccTLD “.nl” may be disregarded for purposes of article 2.1(a) of the Regulations, see *Roompot Recreatie Beheer B.V. v. Edoco LTD*, WIPO Case No. [DNL2008-0008](#).

The Panel finds that the Domain Names are confusingly similar to Complainant’s trademarks for purposes of standing in accordance with the Regulations.

Complainant has satisfied the requirements of Article 2.1.a. of the Regulations.

B. Rights or Legitimate Interests

As stated in [WIPO Overview 3.0](#), “while the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element”.

In the Panel’s opinion, Complainant has made out a prima facie case that Respondent lacks rights to or legitimate interests in the Domain Names.

At the time of the decision, the Domain Names do not resolve to an active website. Based on the undisputed submission and evidence provided by Complainant, the Domain Name <boursou-espace.nl> previously redirected to an imitation of Complainant’s client login page and the Domain Name <boursou-espacee.nl> resolved to a parking page with the text “Ce site Web est en construction” (translation: “This Website is under construction”). The Panel does not consider such use a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the Domain Names. There is no evidence that Respondent has acquired any relevant trademark or service mark rights. In addition, based on the record presented, there has never been any business relationship between Complainant and Respondent. There is also no indication that Respondent is commonly known by the Domain Names.

No Response to the Complaint was filed and Respondent has not rebutted Complainant’s prima facie case.

The Panel finds that Respondent has no rights to or legitimate interests in the Domain Names and that Complainant has satisfied the requirements of Article 2.1.b. of the Regulations.

C. Registered or Used in Bad Faith

Noting the overall circumstances of this case, the Panel finds it highly likely that Respondent knew, and further finds that Respondent in any event should have known, Complainant’s trademarks at the time of registration, especially in view of the fact that the Domain Name <boursou-espace.nl> redirected to an imitation of Complainant’s client login page and that the Domain Name <boursou-espacee.nl> resolved to a parking page.

The Panel notes that the Domain Names at the time of the decision do not resolve to an active website. This does not prevent the Panel in finding bad faith under the doctrine of passive holding (see section 3.3 of [WIPO Overview 3.0](#)).

The Panel also notes Respondent's previous use of the Domain Names, as mentioned above, which indicates that Respondent possibly registered the Domain Names for phishing and with the intention to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith.

The Panel finds that the Domain Names have been registered and are being used in bad faith and that Complainant has satisfied the requirements of Article 2.1.c. of the Regulations.

7. Decision

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the Domain Names, <boursou-espacee.nl> and <boursou-espace.nl>, be transferred to Complainant.

/Dinant T. L. Oosterbaan/

Dinant T. L. Oosterbaan

Panelist

Date: June 9, 2024